HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 2838(S/S)01:
(Old no. 38698/1999)

1. Jagannath Prasad Vashishtha S/o Shankar Dutt Vashishtha,
2. Sarad Singh Chaudhary S/o Sri Tungi Singh Chaudhary,
3. Dhan Singh Thakur S/o Sri Gabar Singh Thakur,
4. Shishupal Singh Negi S/o Sri Sayan Singh Negi,
5. Satyeshwar Prasad Thapliyal S/o Jagat Ram Thapliyal,
6. Satyendra Singh Negi S/o Sri Ram Singh Negi,
7. Chakradhar Chamola S/o Sri Poornanand Chamola,
8. Chandra Singh Rawat S/o Sri Alam Singh Rawat,
9. Indra Singh Negi S/o Sri Ram Singh Negi,
10. Sunil Kumar S/o Sri Darvan Singh Jaggi,

All above residents of Janta Uchchatar Madhymik Vidhyalaya, Bamoth,
District Chamoli. ---- Petitioners.

Vs.

1. State of U.P. through Secretary,
Education Department U.P. Lucknow,
2. Basic Shiksha Parishad,
U.P. Allahabad through its Secretary,
3. District Basic Education Officer,
District Chamoli,
4. Finance and Account Officer,
Basic Shiksha, Chamoli. ----Respondents.

Sri Rajendra Dobhal, learned counsel for the petitioners,
Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rajendra Dobhal, learned counsel for the petitioners and learned Standing Counsel for the respondents.

2. By means of this writ petition, the petitioners have prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 23.06.1999 (annexure no. 11 to this writ petition) passed by the respondent no.4.

ii. Issue a writ, order or direction in the nature of mandamus directing the respondents to pay the salary to the petitioners under provision of U.P. Junior High

School payment of salary of teachers and other employees Act 1978 since July 1999 and further pay the salary to petitioner month by month,

iii. Pass any other and further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case,

iv. Award cost of the writ petition in favour of the petitioners.

3. Submission of the learned counsel for the petitioners is that, the Institution, in which the petitioners are working was granted permanent recognition by the Addl. Director of Education (Basic), Garhwal Mandal, Pauri on 12.08.1985. The District Education Officer (Basic), Chamoli approved the appointments of the petitioner vide its order dated 02.08.1985. The Institution came into the list of grant in aid of State Govt. vide order dated 29.03.1986. On 19.03.1999, the Institution was recognized as High School and the School was granted permission to start Class-IX by the District Inspector of Schools, Chamoli vide order dated 24.06.1999.

4. It has been further contended by the counsel for the petitioners that when the salary bill of the petitioners was submitted before the respondent no. 3 & 4 for payment by the Principal of the Institute, the respondent no. 4 made objection on the salary bills to the effect that the Institution has been granted permission to start Class IX by the order dated 24.06.1999 passed by the District Inspector of Schools, Chamoli, therefore the salary of the petitioners cannot be paid. This is the order impugned in the present writ petition.

5. On 27th September 1999, the Allahabad High Court passed order directing the respondents to make payment of salary to the teachers of the Institution, in case they are getting salary

under 1978 Act at the time of up-gradation of the Institution. Since then the petitioners are continuously working in the Institution and getting salary. The petitioners have placed reliance upon the judgment of the Allahabad High court in the case of **Ram Singh Savita and others vs. State of U.P. and others reported in UPLBEC 1994 (3) page-2037** wherein the Court directed the respondents to release arrears of salary of the petitioners in accordance with the provisions of U.P. Act no. 6 of 1979 till such time the Institution is not covered by the Provision of U.P. Act no. 24 of 1971.

6. Similar controversy was raised in writ petition no. 2822 (ss) 2001 and this Court on 18th April 2006 has held that since the petitioners were approved teachers and were getting salary prior to up-gradation of the Institution under 1979 Act, they shall be paid salary till the Institution comes under U.P. Act no. 24 of 1971. Similar is the situation here.

7. No counter affidavit has been filed by the respondents.

8. Submission of the learned counsel for the petitioners is that they wee approved teachers and were getting salary prior to up-gradation of the Institution under 1979 Act.

9. In the circumstances above, the writ petition is allowed. The impugned order dated 23.08.1999 passed by the accounts Officer, (Basic Education), Chamoli is hereby quashed. The petitioner shall be paid salary under 1979 Act till the Institution is covered under U.P. Act no. 24 of 1971.

10. With this observation, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

April 24, 2006:
NCM: